IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 23 OF 2006

K. Sukumaran Menon ..Applicant

versus

State of Maharashtra ..Respondents

WITH

CRIMINAL APPLICATION NO. 282 OF 2006

Prof. Chakkalakkal Varadunni ..Petitioner
versus
State of Maharashtra ..Respondents

Mr. G. Jadhav for the Applicant in Application No. 23 of 2006.

None for the Petitioner in Application No. 282 of 2006.

Mrs. A. S. Pai, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
V. K. TAHILRAMANI,JJ.

DATE : 18TH APRIL, 2006

P.C. :

1. Criminal Application No. 23 of 2006 is the main Application. This is for quashing the FIR registered by Powai Police Station for offence under Schedule Casts & Schedule Tribes Act. The said FIR

came to be registered at the instance of S. R. Hanvate, who was working as Mess Staff in the Hostel at I.I.T. Powai, Mumbai. The Applicant K. Sukumaran Menon was working as a Hall Manager at Hostel No.5, I.I.T. Powai, Mumbai. The complaint came to be lodged with S.C. S.T. Cell at I.I.T. Powai, at the instance of said S.R. Hanvate on 31.5.2005 alleging that the applicant in Application No. 23 of 2006 and Petitioner in Application No. 282 of 2006 had used offending words with reference to the caste of the complainant.

2. We have heard learned Counsel for the applicant and the learned APP, and we had also called for the record.

3. We have perused FIR shown by the Prosecutor dated 19.1.2006. In that FIR incident of 16.5.2005 is described in detail. As per the request of the counsel for the Applicant, we had also asked the Police to produce copy of the statement of the said Hanvate recorded by the Chairman, S.C.S.T. Cell. This was shown by the counsel for the applicant.

4. On the earlier occasion, it was pointed out

by the counsel for the applicant that incident of 16.5.2005 which is made the basis for registering the FIR along with some other incident is said to have been committed by the applicant in the first week of May, 2005. Therefore, according to the Applicant in the two versions of the complainant, there was variance. A comparison of the statement recorded by the S.C.S.T. Cell and the FIR dated 19.1.2006 shows that even though the statement before the Cell was recorded on 31.5.2005 there is absolutely no mention of any such incident of 16.5.2005 wherein the complainant was insulted with reference to his caste. On the face of it, therefore, the so-called incident dated 16.5.2005 described in the FIR dated 19.1.2006 is an after thought. If really the complainant was insulted with reference to his caste on 16.5.2005, then the same should have found place in his statement recorded by the Cell on 31.5.2005. Omission of this major incident clearly shows that the incident is imaginary.

5. In the said FIR dated 19.1.2006 there is one incident dated 28.12.2005. It is alleged that on that day the applicants insisted upon the

complainant to sign the muster roll from 16.5.2005 to 31.5.2005 but the complainant did not want to sign, and that he was threatened and some words relating to his caste were uttered, viz. "you belonging to lower caste". When questioned, the prosecution could not explain from the FIR as to what was the necessity for the applicants to utter those words with reference to the caste of the complainant. Because admittedly by permitting or calling upon the complainant to sign the muster roll from 16.5.2005 to 31.5.2005, attempt of the applicants was to show that the said complainant attended the College or Hostel. The applicants, in fact, were favouring the complainant by permitting him to sign the muster roll, even though he had not signed the muster roll for 16 days might be due to his negligence or due to his absence. But this incident as alleged in the FIR does not show any provocation at all to the applicants to utter any insulting words to the complainant. When applicants were obliging the complainant in such a manner, there was no need to utter any insulting words and if the complainant was really refusing to sign they could have closed the muster roll and asked the complainant to face the consequences of his absence

for 16 days. Getting signature of the complainant on the muster roll for 16 days was in fact for the benefit and advantage of the complainant. It is not the case that complainant wanted to sign the muster roll and the applicants were not permitting him to do so.

6. For both the reasons, therefore, we find that the complaint is bogus, mischievous and filed with ulterior motive and therefore prayer (a) of the application is allowed. FIR dated 16.1.2006 is quashed as prayed in application No. 23 of 2006. Since that FIR was against two persons and it is quashed, Application No. 282 of 2006 does not survive, the same stands disposed of. Both the Applications are disposed of accordingly.

(D.G. DESHPANDE, J.)

(V.K. TAHILRAMANI, J.)